

**COUNTY COUNCIL  
OF  
HARFORD COUNTY, MARYLAND**

**BILL NO. 94-76**

Introduced by Council President Wilson at the request of the County Executive

Legislative Day No. 94-23

Date: September 6, 1994

**AN ORDINANCE approving and providing for a multi-year Installment Purchase Agreement by Harford County, Maryland (the "County") to jointly acquire with the Maryland Agricultural Land Preservation Foundation development rights in up to 146.04 acres of agricultural land and separately acquire on behalf of the County, development rights in up to 15 acres of agricultural land located at 4701 Fawn Grove Road in Pylesville, Maryland from Herman Dunker, Jr., Jacqueline Dunker and Herman Dunker, III or any other owner thereof for a maximum purchase price of \$2,500.00 per acre or portion thereof (excluding one acre for any existing residential dwelling); providing that the County's obligation to pay such purchase price and interest thereon shall be a full faith and credit general obligation of the County; providing for the levying of taxes for such payments; authorizing the County Executive to make modifications in such Agreement under**

By the Council, September 6, 1994

Introduced, read first time, ordered posted and public hearing scheduled

on: October 11, 1994

at: 6:45 p.m.

By Order: James D. Vannoy, Acting Secretary

**PUBLIC HEARING**

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on October 11, 1994, and concluded on October 11, 1994.

James D. Vannoy, Acting Secretary

**EXPLANATION:**

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [BRACKETS] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

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**certain circumstances; providing that the development rights to be acquired by the County shall not be subject to termination as provided in Section 2-514 of the Agriculture Article of the Annotated Code of Maryland (1985 Replacement Volume, 1993 Cum. Suppl.); and providing for and determining various matters in connection therewith.**

By the Council, \_\_\_\_\_

Introduced, read first time, ordered posted and public hearing scheduled

on: \_\_\_\_\_

at: \_\_\_\_\_

By Order: \_\_\_\_\_, Acting Secretary

**PUBLIC HEARING**

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on \_\_\_\_\_, and concluded on \_\_\_\_\_.

\_\_\_\_\_, Acting Secretary

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [BRACKETS] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

**RECITALS**

Subtitle 5 of Title 2 of the Agriculture Article of the Annotated Code of Maryland (1985 Replacement Volume, 1993 Cum. Suppl.) establishes the Maryland Agricultural Land Preservation Foundation in the Maryland Department of Agriculture (the "Foundation"). The Foundation has been authorized to spend \$296,173.30 to acquire development rights from Herman Dunker, Jr., Jacqueline Dunker and Herman Dunker, III, in 146.04 acres for a purchase price of \$2,500 per acre. As the purchase price for 146.04 acres at \$2,500 is \$365,100, the Foundation has requested the County to participate in the development rights acquisition by paying the balance of the purchase price of 146.04 acres, or \$68,927.70. In addition, Herman Dunker, Jr., Jacqueline Dunker and Herman Dunker, III have requested the County to purchase development rights in up to 15 additional acres for a purchase price of \$2,500 per acre and a maximum additional purchase price of \$37,500. The maximum expenditure by the County for the purchase of development rights in the land of Herman Dunker, Jr., Jacqueline Dunker and Herman Dunker, III is as follows:

A.	146.04 acres to be acquired jointly by the County and the Foundation . . . . .	\$68,927.70
B.	15 acres to be acquired solely by the County . . . . .	<u>\$37,500.00</u>
	TOTAL . . . . .	<u>\$106,427.70</u>

In accordance with the provisions of Section 524 of the Charter of Harford County (the "Charter"), the Annual Budget and Appropriation Ordinance of Harford County, Maryland (the "County") the Budget for fiscal year 1995, Bill No. 94-20 As

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1 Amended (the "Budget Ordinance") includes a project permitting the County to enter  
2 into installment purchase agreements to acquire development rights in agricultural  
3 lands located within the County, which Budget Ordinance was adopted by the County  
4 Council of Harford County, Maryland (the "County Council") as part of the Budget  
5 Ordinance, in accordance with the Charter.

6 Section 520 of the Charter provides that "any contract, lease or other  
7 obligation in excess of three thousand dollars (\$3,000) requiring the payment of funds  
8 from the appropriations of a later fiscal year shall be authorized by legislative act, and  
9 Section 524 of the Charter provides that the County may enter into installment  
10 contracts to purchase easements for agricultural land preservation purposes and  
11 pursuant to Bill No. 93-2 passed by the County Council on April 6, 1993, approved  
12 by the County Executive of the County on April 20, 1993, and effective on June 21,  
13 1993 (the "Authorizing Act"), the County has been authorized and empowered to  
14 enter into such installment purchase agreements.

15 The Authorizing Act provides that after review by the Harford County  
16 Agricultural Advisory Board in accordance with the County's Easement Priority  
17 Ranking System and approval by the Harford County Board of Estimates, the County  
18 Council, may approve and provide for the acquisition of the development rights in  
19 each particular parcel of agricultural land, as defined in the Authorizing Act.

20 Attached to this Ordinance as Exhibit A are records of The Harford County  
21 Agricultural Advisory Board evaluating all applications to offer development right

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1 easements to the County, with each application ranked pursuant to the County's  
2 easement priority ranking system.

3 The County has now determined to enter into an Installment Purchase  
4 Agreement with Herman Dunker, Jr., Jacqueline Dunker and Herman Dunker, III or any  
5 other person who is or becomes the owner of all or any portion of the Land  
6 (hereinafter defined) prior to execution and delivery of such Agreement, in order to  
7 acquire the development rights in approximately 161.04 acres, more or less, of  
8 agricultural land located at 4701 Fawn Grove Road in Pylesville, Maryland, within the  
9 County, for an aggregate purchase price to be paid by the County not in excess of  
10 \$106,427.30, plus interest thereon, the actual amount of the purchase price to be  
11 equal to the lesser of such maximum amount or \$2,500.00 times the number of acres  
12 in such land (minus the payment of \$296,173.30 to be paid by the Foundation and  
13 minus one acre for any existing residential dwelling located thereon), upon the terms  
14 and conditions hereinafter set forth.

15 NOW, THEREFORE:

16 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF HARFORD  
17 COUNTY, MARYLAND, That

18 (a) Harford County, Maryland (the "County") shall enter into an  
19 Installment Purchase Agreement (the "Installment Purchase Agreement") with Herman  
20 Dunker, Jr., Jacqueline Dunker and Herman Dunker, III or any person who is or  
21 becomes the owner of all or any portion of the Land (hereinafter defined) prior to the  
22 execution and delivery of the Installment Purchase Agreement (the "Seller") in order

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1 to acquire the development rights in approximately 161.04 acres of land, more or  
2 less, located at 4701 Fawn Grove Road in Pylesville, Maryland within the County (the  
3 "Land"), for an aggregate purchase price to be paid by the County not in excess of  
4 \$106,427.30 (the "Purchase Price"), plus interest thereon as hereinafter provided;  
5 provided that the actual amount of the Purchase Price shall be equal to the lesser of  
6 such maximum amount or \$2,500.00 multiplied by the number of acres in the Land  
7 (minus the payment of \$296,173.30 by the Foundation and minus one acre for any  
8 existing residential dwelling located thereon) The County shall acquire the  
9 development rights in 146.04 acres jointly with the Foundation and shall be the sole  
10 purchaser of the development rights in up to 15 acres;

11 (b) The Installment Purchase Agreement shall be in substantially the  
12 form attached hereto as Exhibit B and made a part hereof, and in such form the  
13 Installment Purchase Agreement is hereby approved as to form and content. The  
14 Installment Purchase Agreement shall be dated as of the date of its execution and  
15 delivery by the County and the Seller (the "Closing Date");

16 (c) A portion of the Purchase Price, in the amount determined as  
17 hereinafter provided, shall be paid in cash on the Closing Date. The balance of the  
18 Purchase Price shall be paid to the Seller in each year thereafter to and including a  
19 date not more than twenty (20) years after the Closing Date. The dates on which  
20 each such installment is payable shall be determined by the County Executive and the  
21 Treasurer and shall be inserted in the form of the Installment Purchase Agreement  
22 attached hereto as Exhibit B;

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1           (d) Interest on the unpaid balance of the Purchase Price shall accrue  
2 from the Closing Date and shall be payable at least annually in each year, commencing  
3 on the first of such dates to follow the Closing Date and continuing to and including  
4 a date not more than 20 years after the Closing Date at an interest rate equal to the  
5 yield on U.S. Treasury STRIPS maturing on the date next preceding the final maturity  
6 date in the Installment Purchase Agreement determined as of the business day  
7 preceding the Closing Date and rounded to the next highest 0.05% per annum.  
8 Interest shall be calculated on the basis of a 360-day year of twelve 30-day months;

9           (e) The County's obligation to make payments of the Purchase Price  
10 under the Installment Purchase Agreement and to pay interest thereon is and shall be  
11 a general obligation of the County and is and shall be made upon its full faith and  
12 credit.

13           SECTION 2. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF  
14 HARFORD COUNTY, MARYLAND,

15           That it is hereby found and determined that:

16           (a) The acquisition of the development rights in the Land shall be  
17 pursuant to a Deed of Easement substantially in the form attached hereto as Exhibit  
18 C as set forth in Section 1 of this Ordinance and in the form of the Installment  
19 Purchase Agreement attached hereto as Exhibit B is in the best interests of the  
20 County;

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1           (b)    The Installment Purchase Agreement is a contract providing for the  
2   payment of funds at a time beyond the fiscal year in which it is made and requires the  
3   payment of funds from appropriations of later fiscal years;

4           (c)    Funds for the payment of the Purchase Price under the Installment  
5   Purchase Agreement are included in the Budget Ordinance, As Amended;

6           (d)    The County shall acquire the development rights in the Land in  
7   perpetuity;

8           (e)    The Purchase Price is within the legal limitation on the  
9   indebtedness of the County as set forth in Article 25A, § 5(P) of the Annotated Code  
10   of Maryland;

11          (f)    The cost of acquiring the development rights in the Land is equal  
12   to the Purchase Price;

13          (g)    The only practical way to acquire the development rights in the  
14   Land is by private negotiated agreement between the County and the Seller.

15        SECTION 3. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF  
16   HARFORD COUNTY, MARYLAND, That the Installment Purchase Agreement shall be  
17   signed by the County Executive of the County (the "County Executive") by her manual  
18   signature, and the Installment Purchase Agreement shall bear the corporate seal of the  
19   County, attested by the manual signature of the Director of Administration of the  
20   County (the "Director of Administration"). In the event that any officer whose  
21   signature shall appear on the Installment Purchase Agreement shall cease to be such  
22   officer before the delivery of the Installment Purchase Agreement, such signature shall



1 nevertheless be valid and sufficient for all purposes, the same as if such officer had  
2 remained in office until delivery.

3 **SECTION 4.** AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF  
4 HARFORD COUNTY, MARYLAND, That the County Executive and the Treasurer are  
5 hereby authorized, prior to execution and delivery of the Installment Purchase  
6 Agreement, to make such changes or modifications in the form of the Installment  
7 Purchase Agreement attached hereto as Exhibit B as may be required or deemed  
8 appropriate by them in order to accomplish the purpose of the transactions (including,  
9 but not limited to, determining the portion of the Purchase Price to be paid in cash on  
10 the Closing Date and establishment of interest and principal payment dates in each  
11 year that the Installment Purchase Agreement is outstanding) authorized by this  
12 Ordinance; provided that such changes shall be within the scope of the transactions  
13 authorized by this Ordinance and the execution of the Installment Purchase Agreement  
14 by the County Executive shall be conclusive evidence of the approval by the County  
15 Executive of all changes or modifications in the form of the Installment Purchase  
16 Agreement and shall thereupon become binding upon the County in accordance with  
17 its terms, as authorized by Section 524 of the Charter and the Authorizing Act  
18 (collectively, the "Enabling Legislation"), and as provided for in this Ordinance.

19 **SECTION 5.** BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF  
20 HARFORD COUNTY, MARYLAND, That the County Executive, the Director of  
21 Administration, the Treasurer of the County and other officials of the County are  
22 hereby authorized and empowered to do all such acts and things and to execute,

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1 acknowledge, seal and deliver such documents (including a Tax Certificate and  
2 Compliance Agreement) and certificates as the County Executive may determine to  
3 be necessary to carry out and comply with the provisions of this Ordinance subject  
4 to the limitations set forth in the Enabling Legislation and any limitations set forth in  
5 this Ordinance.

6 SECTION 6. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF  
7 HARFORD COUNTY, MARYLAND, That the Treasurer of the County is hereby  
8 designated and appointed as registrar and paying agent for the Installment Purchase  
9 Agreement (the "Registrar"). The Registrar shall maintain, or cause to be maintained,  
10 books of the County for the registration and transfer of ownership of the Installment  
11 Purchase Agreement. In addition, the County may, from time to time, designate and  
12 appoint the Department of the Treasury of the County, any officer or employee of the  
13 County or one or more banks, trust companies, corporations or other financial  
14 institutions to act as a substitute or alternate registrar or paying agent for the  
15 Installment Purchase Agreement, and any such substitute or alternate shall be deemed  
16 to be the Registrar or an alternate Registrar for all purposes specified in the resolution  
17 appointing such substitute or alternate. Any such appointment shall be made by the  
18 County Council by resolution and the exercise of such power of appointment, no  
19 matter how often, shall not be an exhaustion thereof.

20 SECTION 7. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF  
21 HARFORD COUNTY, MARYLAND, That for the purpose of paying the installments of  
22 the Purchase Price when due and payable and the interest on the unpaid portion of the

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Purchase Price when due and payable, there is hereby levied, and there shall hereafter be levied in each fiscal year that any portion of the Purchase Price payable under the Installment Purchase Agreement remains outstanding, *ad valorem* taxes on real and tangible personal property and intangible property subject to taxation by the County, without limitation of rate or amount, and, in addition, upon such other intangible property as may be subject to taxation by the County within limitations prescribed by law, in an amount sufficient, together with the portion of the transfer tax imposed on transfers of real property in Harford County which is dedicated to agricultural land preservation and other available funds, to pay any installment of the Purchase Price under the Installment Purchase Agreement maturing during the succeeding year and to pay the annual interest on the outstanding balance of the Purchase Price until all of the Purchase Price under the Installment Purchase Agreement and such interest have been paid in full; and the full faith and credit and the unlimited taxing power of the County are hereby irrevocably pledged to the punctual payment of the Purchase Price under the Installment Purchase Agreement and the interest on the unpaid balance of the Purchase Price as and when the same respectively become due and payable.

**SECTION 8. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND** that the County shall acquire development rights in 146.04 acres jointly with the Foundation and in up to 15 acres to be solely owned by the County, and the interest to be acquired shall not be subject to the provisions of Section 2-514 of the Agriculture Article of the Annotated Code of Maryland (1985

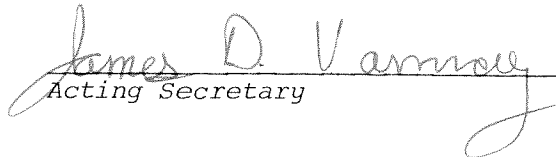
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1 Replacement Volume, 1993 Cum. Suppl), and the purchase by the County is  
2 conditioned upon the express waiver by Herman Dunker, Jr., Jacqueline Dunker and  
3 Herman Dunker, III or any other owner thereof of the aforesaid Section 2-514 of the  
4 Agriculture Article of the Annotated Code of Maryland (1985 Replacement Volume,  
5 1993 Cum. Suppl.).

6 SECTION 9. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF  
7 HARFORD COUNTY, MARYLAND, That this Ordinance shall take effect sixty (60)  
8 calendar days after it becomes law.

EFFECTIVE: December 27, 1994

*The Secretary of the Council does hereby  
certify that fifteen (15) copies of this Bill  
are immediately available for distribution to  
the public and the press.*

  
Acting Secretary

AG-95B\Amoss2.a0r  
8/31/94 dp (2)

HARFORD COUNTY BILL NO. 94-76(Brief Title) Ag. Land Preservation - Herman Dunker Property

is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

ENROLLED

James D. Vannoy  
Acting Secretary  
of the Council

[Signature]  
President of the Council

Date October 18, 1994Date October 18, 1994

BY THE COUNCIL

Read the third time.

Passed: LSD 94-28 (October 18, 1994)

Failed of Passage: \_\_\_\_\_

By Order

James D. Vannoy  
Acting Secretary

Sealed with the County Seal and presented to the County Executive for approval this 19th day of October, 1994 at 3:00 p. m.

James D. Vannoy  
Acting Secretary

BY THE EXECUTIVE

Colleen M. Rehman  
COUNTY EXECUTIVE

APPROVED: Date October 26, 1994

BY THE COUNCIL

This Bill (No. 94-76), having been approved by the Executive and returned to the Council, becomes law on October 26, 1994.

James D. Vannoy  
Acting Secretary of the Council

EFFECTIVE DATE: December 27, 1994